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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

FIRST SWING GOLF, LLC,  
Complainant,

v.

JOHNSON UTILITIES, LLC,  
Respondent.

DOCKET NO. WS-02987A-08-0049

RESPONDENT'S RESPONSE TO  
MOTION TO CONSOLIDATE

Johnson Utilities, LLC, ("Johnson" or the "Company") hereby files this Response to Complainant's Conditional Motion to Consolidate dated February 20, 2008.

1. Complainant correctly states the procedural status of Docket No. WS-02987A-07-0203, but fails to recite the basis for Staff's deeming the Application Insufficient. Staff has requested an executed agreement between the Company and the Town of Florence prior to declaring the Application Sufficient. No such agreement exists today, and negotiations of that agreement have ceased. Therefore, the Application will not be Sufficient any time soon. Further, even once Sufficient, Commission Rule AAC R14-2-411('C) allows the Commission 150 days to process the Application, a time frame well beyond the life expectancy of the Complaint.

1           2.     The Company does not believe that having the Complaint unresolved for that  
2 extended period of time benefits either the customer or the Company, which is seeking timely  
3 payment of the funds owed it by the Complainant.

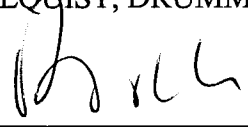
4           3.     Additionally, the requirements of Rule AAC R14-3-109 (H) have not been met.  
5 The issues in the two Dockets are not substantially the same, and the parties and witnesses are  
6 not even the same. The Company is certainly prejudiced by being denied the right to a timely  
7 determination of the billing matters in the Complaint. The Complaint is not prejudiced because  
8 whether whatever the timing of a deletion application the Commission would no doubt condition  
9 any approval of the deletion on resolution of the Complaint, well before the Commission would  
10 lose jurisdiction to the Town.

11          4.     Finally, as indicated, the negotiations on the sale are at the stage that the  
12 withdrawal of the Application in Docket No. WS-029876A-07-0203 is appropriate. The  
13 Company will file such a withdrawal within the next 30 days, which withdrawal will make any  
14 requested consolidation moot.

15               WHEREFORE, the Company respectfully requests that the Hearing Division deny the  
16 Motion to Consolidate.

17               RESPECTFULLY submitted this 22<sup>nd</sup> day of February 2008.

19                               SALLQUIST, DRUMMOND & O'CONNOR, P.C.

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1 Original and fifteen copies of the  
2 foregoing filed this 22<sup>nd</sup> day  
of February 2008:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington  
6 Phoenix, Arizona 85007

7 A copy of the foregoing  
8 mailed/hand delivered this  
9 22<sup>nd</sup> day of February 2008, to:

10 Hearing Division  
11 Arizona Corporation Commission  
12 1200 West Washington  
13 Phoenix, Arizona 85007

14 Utilities Division  
15 Arizona Corporation Commission  
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